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Transcript Exhibit(s)

Docket #(s): SW-04305A-05-0086

SW-04305A-05-0087

Exhibit # : A-8, A-9, A-10, S-7

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6
7 **BEFORE THE ARIZONA CORPORATION COMMISSION**

8 IN THE MATTER OF THE
APPLICATION OF CORONADO
9 UTILITIES, INC. FOR A CERTIFICATE
OF CONVENIENCE AND NECESSITY
10 TO PROVIDE WASTEWATER SERVICE
IN PINAL COUNTY, ARIZONA.

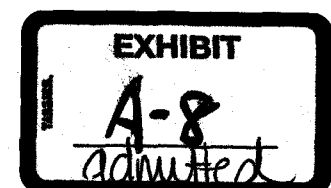
DOCKET NO. SW-04305A-05-0086

11
12 IN THE MATTER OF THE
APPLICATION OF CORONADO
13 UTILITIES, INC., AN ARIZONA
CORPORATION, FOR AUTHORITY TO
14 ISSUE SHORT AND LONG-TERM DEBT
INSTRUMENTS IN CONNECTION
15 WITH FINANCING THE ACQUISITION
OF THE WASTEWATER UTILITY
16 PLANT OF BHP COPPER, INC. AND
CONSTRUCTING IMPROVEMENTS
17 THERETO.

DOCKET NO. SW-04305A-05-0087

(Consolidated)

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19
20
21 **DIRECT TESTIMONY OF JASON P. WILLIAMSON**
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1 **I. INTRODUCTION.**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Jason P. Williamson and my business address is 6825 E. Tennessee,
4 Suite 547, Denver Co 80224.

5 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6 A. I am the Managing Member of Pivotal Utility Management, LLC and a member of
7 its affiliate, Pivotal Operations, LLC, ("collectively hereinafter, "Pivotal"). Pivotal
8 owns and/or operates a total of eight water and sewer utilities in Arizona, seven of
9 which are regulated by the Commission. The other is a sewer system owned by an
10 HOA, which Pivotal manages and operates under contract. I also hold positions in
11 several of the utilities, including the applicant, Coronado Utilities, Inc.
12 ("Coronado"), for which I hold the position of President.

13 **Q. WHO ARE THE OTHER PRINCIPALS IN PIVOTAL?**

14 A. John Clingman and Dwight Zemp. Mr. Clingman has also filed testimony in this
15 docket at this time. However, Mr. Zemp and Mr. Clingman have no role in the
16 day-to-day operations and management of Pivotal or its operating affiliates. I am
17 primarily responsible for such operations.

18 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE COMMISSION IN**
19 **THIS PROCEEDING?**

20 A. Yes. I have testified twice before the presiding administrative law judge and twice
21 been subjected to cross-examination. I also appeared on behalf of Pivotal and
22 Coronado at the Commission's December 6, 2005 Open Meeting when the two
23 applications in this docket were considered.

1 Q. WHY ARE YOU SUBMITTING THIS ADDITIONAL TESTIMONY AT
2 THIS STAGE OF THE PROCEEDING?

3 A. The purpose of my testimony is to address concerns raised by the Commissioners
4 during that Open Meeting. Specifically, the Commission has remanded this matter
5 back for further evidence concerning: (1) whether Coronado is fit and able to serve
6 in light of an incident involving the death of a Santec Corporation ("Santec")
7 employee in October, 2001, at a wastewater treatment plant in Yuma, Arizona; and
8 (2) whether rates for services provided by Coronado should be phased in over three
9 phases.

10 Q. HAVE THESE ISSUES BEEN PREVIOUSLY ADDRESSED IN THIS
11 PROCEEDING?

12 A. Yes. A two phased rate structure was developed and recommended by Coronado
13 and Staff. During the first phase, the average residential customer's monthly rate
14 was to be discounted by roughly 35%. See November 18, 2005 Recommended
15 Opinion and Order ("ROO") at 13-15. Phase two would commence when
16 construction of the new wastewater treatment plant was completed. Obviously, we
17 felt this was a substantial benefit to customers facing substantial rate increases, as
18 did Administrative Law Judge Rodda, who adopted the recommended rate design
19 in her ROO, albeit with the first phase rate further reduced from the proposal by
20 Coronado and Staff.

21 The death of the Santec employee was raised by Staff in June, 2005. We
22 worked with Staff to provide information on the incident, the criminal proceedings
23 that followed and the relationship of Santec to Coronado and Coronado's new
24 Certificate of Convenience & Necessity ("CC&N") and financing applications.
25 Staff issued a supplemental report on August 31, 2005, recommending safety
26

1 conditions it believed would further protect the public, and we readily accepted
2 them. Supplemental Staff Report at 4-5; ROO at 16.

3 **Q. DO YOU BELIEVE THE ISSUANCE OF A CC&N TO CORONADO IS IN**
4 **THE PUBLIC INTEREST?**

5 **A.** Without question. However, it is clear that we have not yet done enough to
6 convince the Commission of this. It is my sincere hope that the additional
7 testimony being submitted by Coronado and the additional proceedings will
8 produce a record from which the Commission can conclude that the requested
9 relief is warranted and in the public interest.

10 **II. CORONADO'S FITNESS TO PROVIDE SEWER UTILITY SERVICE.**

11 **Q. WERE YOU AWARE OF THE FATAL ACCIDENT INVOLVING SANTEC**
12 **BEFORE IT WAS RAISED BY STAFF IN JUNE, 2005, FOLLOWING THE**
13 **FIRST HEARING DATE IN THIS DOCKET?**

14 **A** Yes, but I had no knowledge of the status of the criminal proceeding against Santec
15 until after Ms. Jaress discovered the newspaper article (in June or July) regarding
16 the plea agreement and upcoming sentencing. While Mr. Clingman and Mr. Zemp
17 are the owners of Santec, I am not an owner, investor, employee or consultant. My
18 focus was and is on the utility entities that Pivotal manages, not on Santec or the
19 status of its legal proceedings. I am responsible for the day-to-day operations of
20 Pivotal, and while my partners are informed of our operations, as stockholders
21 should be regularly informed, the opposite is not true, since I have no interest in
22 Santec.

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1 Q. BUT YOU COULD HAVE INFORMED THE COMMISSION OF THE
2 ACCIDENT THAT RESULTED IN THE LOSS OF LIFE OF A SANTEC
3 EMPLOYEE?

4 A. I could have, but I simply did not connect the dots from that tragic incident in
5 Yuma more than four years ago and Coronado's request for a CC&N to take over
6 sewer utility service from BHP Copper, Inc. ("BHP") in San Manuel, Arizona. It
7 simply never occurred to me that the fatal accident, which was unrelated to me,
8 Pivotal or Coronado, had any significance in this docket.

9 Q. WILL SANTEC DESIGN AND INSTALL THE NEW WASTEWATER
10 TREATMENT FACILITY PROPOSED FOR SAN MANUEL?

11 A. If Santec is the successful bidder. For now, we have merely used Santec's cost
12 estimates to assist in developing rates for Coronado. I would also like to point out
13 that any entities contracted to design, construct, operate, maintain or repair any
14 facility owned and operated by Coronado, or Pivotal or any other Pivotal affiliate,
15 are required to adhere to all standards for occupational healthy and safety. We take
16 every appropriate step to ensure our facilities are operated safely.

17 Q. DO YOU UNDERSTAND THE COMMISSION'S CONCERN OVER THE
18 SANTEC INCIDENT IN THIS MATTER?

19 A. Anytime an occupational hazard results in fatality, regulatory agencies should be
20 concerned. In this case, that concern should lead to the Commission scrutinizing
21 Coronado to ensure that its is fit and able to provide the requested utility service.
22 All of Pivotal's systems currently operate in compliance with the regulations of this
23 Commission, as well as all other applicable local, state and federal laws and
24 regulations.

1 **Q. DOES PIVOTAL HAVE SAFETY POLICIES AND PROCEDURES?**

2 A. Yes, in addition to the safety conditions recommended in this case by Staff, Pivotal
3 and all of its operating affiliates adhere to the safety policies prescribed by the
4 Arizona Department of Environmental Quality and the Occupational Safety and
5 Health Administration. Attached hereto as Williamson Exh. 1 is the confined
6 space entry procedure that is currently in the Operations and Maintenance Safety
7 Manual at the San Manuel WWTP in San Manuel, AZ. Once Coronado closes on
8 its purchase agreement, this safety manual will be adopted by Coronado. In
9 addition, Pivotal has reviewed the safety procedures and safety manuals at every
10 utility it manages to ensure buildings have all proper and necessary safety
11 equipment, signage, and that operators have the proper training and resources
12 necessary to fulfill their duties in the safest possible manner.

13 **Q. DURING THE OPEN MEETING, BENSCHE RANCH UTILITIES, LLC WAS**
14 **BROUGHT UP. IS THIS AN ISSUE THAT BEARS ON CORONADO'S**
15 **FITNESS TO PROVIDE SEWER UTILITY SERVICE?**

16 A. Not in my view, and I do not understand why it was referenced on a couple of
17 occasions during the Open Meeting. Bensch Ranch Utilities, LLC ("BRU") is an
18 operating affiliate of Pivotal that provides sewer utility service in Yavapai County
19 under a CC&N issued by this Commission. *See* Commission Decision No. 67180
20 (August 10, 2004).

21 **Q. IS BRU IN VIOLATION OF ANY RULES OF REGULATION OF THE**
22 **COMMISSION, OR ANY OTHER APPLICABLE LAWS?**

23 A. No, but during the proceedings concerning BRU's CC&N, the Commission
24 became concerned over Lester Smith's ownership interest in the development that
25 the utility was to serve. In short, we became aware during that proceeding that Mr.
26 Smith was essentially a "wanted man" by the Commission and that substantial

1 fines imposed against him remained unpaid. However, Mr. Smith was no more
2 than a financial investor in a real estate development our sewer utility intended to
3 serve. He did not have, and never will have any interest in BRU, Pivotal or any
4 affiliate. *See id.* at 4.

5 Unfortunately, although the Commission clearly satisfied itself before it
6 issued the CC&N to BRU, it seems that Lester Smith issue that came up in the
7 BRU CC&N proceeding, may have tainted some views of Pivotal. I respectfully
8 suggest that is unfair. Given the facts, as described above, I trust that the
9 Commission will not allow Mr. Smith's unrelated interest in a real estate
10 development to impact its assessment of Pivotal's operations, or its decision in this
11 proceeding.

12 **III. THREE PHASE RATE PROPOSAL.**

13 **Q. YOU MENTIONED EARLIER THAT CORONADO IS OFFERING A**
14 **PROPOSED THREE PHASE RATE STRUCTURE. WHY IS CORONADO**
15 **MAKING SUCH A PROPOSAL AT THIS TIME?**

16 **A.** Because at the December 6, 2005 Open Meeting, the Commission also expressed
17 concern about the substantial rate increases residents and businesses in San Manuel
18 would experience when BHP-subsidized sewer utility service comes to an end.

19 **Q. HOW MUCH DO CUSTOMERS CURRENTLY PAY FOR SEWER**
20 **SERVICE IN SAN MANUEL?**

21 **A.** Residential customers currently pay \$4 per month or \$48 per year for sewer service
22 by BHP. Businesses pay approximately \$60 per year. Under the rates proposed by
23 Staff and Coronado and slightly amended in the ROO, those same residential
24 customers would pay \$27.00 per month until construction of the new treatment
25 plant is complete, and \$46.50 per month once the new facility is placed in service.
26 ROO at 25. Obviously, these are substantial increases, however, the evidence

1 before the Commission plainly shows that such rates are just and reasonable
2 because they are at a level necessary to allow Coronado to recover its operating
3 expenses and provide it opportunity to earn a fair rate of return on its utility
4 property.

5 **Q. WHAT IS CORONADO'S PROPOSAL FOR ADDING A THIRD PHASE**
6 **TO THE RATE STRUCUTRE?**

7 A. The phase one rates would remain at \$27.00, commencing with issuance of an
8 order by the Commission granting the requested CC&N and other relief. Then,
9 when the new treatment facility is complete, a new, second phase of rates would be
10 implemented for twelve (12) months. The proposed second phase rates would be
11 as follows:

- 12 • Monthly Customer Charges:
 - 13 Residential: \$37.00
 - 14 Commercial: \$7.50
 - 15 Mobile Home Park: (winter only) \$7.50
 - 16 School: \$7.50
- 17 • Volumetric Rates (based on number of units)
 - 18 Commercial – per 100 gallons of usage: \$0.81
 - 19 Mobile Home Park – per 100 gallons of usage: \$0.47
 - 20 Schools – per 100 gallons of usage: \$0.2561

21 All other rates during the second phase would be as recommended in the ROO.

22 Then, after 12 months, a third and final phase of rates, equal to what is
23 currently proposed as the second phase of rates, as recommended by Staff and
24 Coronado and adopted in the ROO, would be implemented. I would also note that
25 all phase changes would be proceeded by at least thirty (30) days notice to
26 customers.

1 Q. BUT MR.WILLIAMSON, DIDN'T YOU TESTIFY EALRIER THAT THE
2 RATES ADOPTED IN THE ROO ARE NECESSARY FOR CORONADO
3 TO RECOVER ITS OPERATING EXPENSES AND EARN A FAIR
4 RETURN?

5 A. Yes, I did. However, under the three phase rate structure proposed herein,
6 Coronado's will realize the same revenue.

7 Q. HOW IS THAT POSSIBLE IF THE RATES WILL BE REDUCED FOR AN
8 ADDITIONAL TWELVE MONTHS?

9 A. Because BHP has agreed to subsidize the rates for a twelve month period after the
10 new treatment plant is complete. BHP will pay Coronado the difference between
11 the revenue it would have received, but for the imposition of another rate phase,
12 between completion of the facility and imposition of the final rates. BHP's
13 agreement to provide this subsidy is limited to no more than the amount necessary
14 to subsidize the second phase of discounted rates proposed herein for a twelve
15 month period. This means that, if the Commission were to further reduce the rates
16 in any phase, Coronado would not realize sufficient revenue to recover its
17 operating expenses and have an opportunity to earn a fair return.

18 Q. THAT SOUNDS VERY FAIR TO THE FUTURE CORONADO
19 RATEPAYERS.

20 A. I agree, but we have tried from the outset to take steps to smooth the transition
21 from BHP-subsidized sewer utility service to provision of that service by a
22 Commission-regulated public service corporation. For example, it was Coronado
23 that proposed the two phase rate design that postpones recovery of a return on
24 utility property. It was also Coronado that went out and obtained approval of low-
25 cost bond financing, which reduces the rate increases being realized by customers.
26 Coronado also agreed to nearly triple its equity investment when Staff raised

1 concerns that too much low-cost debt was being utilized to fund plant construction.
2 Coronado also agreed to Staff's recommended safety measures and accepted, over
3 its strong opposition, restrictions on the majority of its earnings. All of these things
4 benefit the ratepayer at the expense of Coronado, Pivotal and BHP, further
5 evidencing that the requested relief is in the public interest.

6 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

7 **A.** Yes, except that I wish to again urge the Commission to complete its consideration
8 of this matter and issue an order granting the requested relief at the earliest possible
9 date, so that the ratepayer benefits described above can be realized.

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EXHIBIT

1

APPENDIX D

· CONFINED SPACE ENTRY / HOT WORK PERMIT

Working in Confined Spaces

A confined space is defined as any space or structure which by design has limited openings for entry and exit, and which is not intended for continuous employee occupancy. A confined space has poor natural ventilation. Confined spaces include storage tanks, pits, silos, vats, boilers ducts sewers, pipelines, and other structures found at metal/nonmetal mines. A confined space which is immediately dangerous to life or health (IDLH) includes those with oxygen deficiency, explosive or flammable atmospheres, or high concentrations of toxic substances - and requires the most demanding protective measures. Any operation which generates toxic contaminants within a confined space, without proper control measures and precautions, may be dangerous to life within a short period of time.

When work is planned within a confined space, the supervisor and the miner who is to carry out the work should have an understanding as to the work to be done, the hazards that may arise, and the necessary protective measures to be taken. A work permit which contains this information in writing is highly recommended. This will provide authorization for the work, and requires that the supervisor and employee review the operation, hazards and control measures before entry and before the operation is started.

Protective and precautionary measures for work in confined spaces should involve as a minimum, the following:

1. Atmospheric testing and monitoring. Prior to entry, initial testing of the atmosphere should be carried out from the outside. Such tests should include those for oxygen content, flammability, and toxic contaminants. In accord with MSHA regulations, the oxygen content shall be at least 19.5%. If it appears that an atmosphere immediately dangerous to life may develop, it is essential that a safety belt or harness and a life line be worn by the person in the confined space. A standby person must be in attendance.
2. Training of personnel. Employees who are to work in confined spaces should be adequately trained. Such training should include understanding of the hazards involved, entry and exit procedures, safety equipment, emergency first aid, control measures such as ventilation, use of appropriate respirators if required, and proper work practices.
3. Standby person. When work is conducted within a confined space, a standby person should be stationed on the outside. This person should be trained in emergency rescue and first-aid procedures, and should have communication equipment as necessary for contact with those working inside, and for immediate contact with medical, ambulance, fire fighting, and other rescue personnel if needed. MSHA regulations require that such person be present if the

atmosphere in the confined space is dangerous (IDLH). The standby person should be familiar with and have available appropriate respiratory protection equipment.

4. Safety equipment and clothing. Employees working in confined spaces must have available and use appropriate safety equipment and clothing - such as eye and face protection, proper gloves and full-coverage work clothing where indicated, and safety belt or harness with lifeline in dangerous atmospheres. MSHA regulations have specific requirements for such safety equipment and clothing. Hearing protection in the form of ear plugs or muffs is required where noise levels exceed MSHA standards. Personal respiratory protection may be necessary if ventilation is not sufficient to control contaminants to the permissible exposure limits. This may be in the form of supplied-air respirators or self-contained breathing apparatus and is recommended where contaminants from welding, painting, solvent cleaning or other operations generating toxic contaminants are involved.

5. Warning signs. Warning signs of a confined space and the hazard should be posted near entrances. When work is not in progress, the entrance should be blocked. When work is in progress, the standby person should ensure that unauthorized persons do not enter the restricted area.

6. Purging and ventilation. Purging of the confined space to remove contaminants should be done before entry by means of a high rate of general ventilation. Atmospheric testing is then in order. Atmospheric testing is then in order. The main environmental, or engineering, control of suspected or known contaminants during operations is general ventilation. Design of the system will vary. Continuous general ventilation is recommended for most operations where contaminants are generated. This may be supplemented or replaced by local exhaust ventilation. Personal respiratory protection may be required in addition to general and/or local exhaust ventilation. Monitoring of contaminants during operations is indicated if there is doubt about the effectiveness of controls.

Attention to the protective and precautionary measures outlined above is essential for assurance that exposures within confined spaces are controlled.

If you have any questions about this or any other occupational health matter, feel free to ask us. Our job is protecting your health.

Contact:

Mine Safety and Health Administration
Metal and Nonmetal Health Division
4015 Wilson Boulevard
Arlington, Virginia 22203-1983

Phone: 703-235-8307

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Work Permits - Confined Space Entry

1.0 Introduction

The purpose is to establish a uniform procedure and provide protection to employees entering areas identified as confined space areas as per OSHA 1910.146 and NIOSH 5.52.

2.0 Definition

A permit-required confined space is any space large enough and so configured that an employee can bodily enter and perform assigned work.

It has limited or restricted means for entry or exit. Examples: tanks, vessels, silos, storage bins, boilers, furnaces.

It is not designed for continuous employee occupancy.

3.0 Characteristics of a Confined Space

Confined space has one or more of the following characteristics:

1. Contains or has the potential to contain a hazardous atmosphere.
2. Contains a material which has the potential for engulfing the entrant.
3. Has an internal configuration such that any entrant could be trapped or asphyxiated by inwardly converging walls or by a floor which slopes downward and tapers to a smaller cross section.
4. Contains any other recognized serious safety or health hazard.

4.0 Permit-Required Confined Space Areas

All heads of departments are responsible to list permit-required confined space locations in their area of responsibility.

5.0 Duties

1. Work team leaders are responsible to know the hazards which may be faced during entry, including:
 - a. Information on the mode of entry.
 - b. Signs or symptoms.
 - c. Consequences of exposure

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2. The work team leader verifies, by checking that appropriate entries have been made on the permit, all tests specified by the permit have been conducted and all procedures and equipment specified by the permit are in place before endorsing the permit and allowing the entry to begin.
3. The entry work team leader can terminate the entry and cancel the permit when:
 - a. Operations covered by the entry permit have been completed.
 - b. A condition which is not allowed under the entry permit arises in or near the permit space.
4. The entry work team leader verifies that rescue services are available and that the means of summoning them are operable.
5. The entry work team leader shall remove unauthorized individuals and investigate the occurrence.
6. The entry work team leader determines whenever responsibility for a permit-space entry operation is transferred and, at intervals dictated by the hazards and operations performed within the space, that entry operations remain consistent with the terms of the entry permit and that acceptable entry conditions are maintained.

6.0 Authorized Entrant

Heads of departments shall ensure that all authorized entrants:

1. Know the hazards which may be faced during entry and include the following:
 - a. Information on the mode of entry.
 - b. Signs or symptoms.
 - c. Consequences of the exposure.
2. Know the proper use of the following:
 - a. Testing and monitoring equipment.
 - b. Ventilation equipment.
 - c. Communications.
 - d. Personal protective equipment.
 - e. Lighting equipment.
 - f. Barriers/flagging required.

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- g. Ladders for safe ingress and egress.
 - h. Rescue and emergency equipment.
3. The authorized entrant must communicate with the assigned door attendant as necessary to enable the attendant to monitor the entrants' status and to alert the entrants of a need to evacuate the space if necessary.
 4. The authorized entrant must alert the assigned attendant whenever:
 - a. The entrants recognize any warning sign or symptom of exposure to a dangerous situation.
 - b. The entrant detects a prohibited condition.
 5. The authorized entrant must exit from the permit space as quickly as possible whenever:
 - a. An order to evacuate is given by the assigned attendant or the entry work team leader.
 - b. The entrant recognizes any warning sign or symptom of exposure to a dangerous situation.

7.0 Assigned Attendants

Heads of departments shall ensure that all assigned attendants:

1. Knows the hazards that may be faced during entry, including the following:
 - a. Information on the mode of entry.
 - b. Signs or symptoms.
 - c. Consequences of the exposure.
2. The assigned attendant is aware of possible behavioral effects of hazard exposure in authorized entrants.
3. The attendant continuously maintains an accurate count of authorized entrants in the permit space and ensures the means to identify the authorized entrants (listed on the permit) is accurate.
4. The attendant remains outside the permit space during entry operations until relieved by another attendant.

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5. The attendant communicates with the authorized entrants, as necessary, to monitor the entrant status and to alert entrants of the need to evacuate, should it arise.
6. The attendant monitors activities inside and outside the space to determine if it is safe for entrants to remain in the space and orders the authorized entrants to evacuate the space immediately under any of the following conditions.
 - a. If the attendant detects a prohibited condition.
 - b. If the attendant detects behavioral effects of hazard exposure in an authorized entrant.
 - c. If the attendant detects a situation outside the space which could endanger the authorized entrant.
 - d. If the attendant cannot effectively and safely perform all of his/her duties as described.
7. The attendant shall summon rescue services as soon as he/she determines the authorized entrants need assistance to escape from the confined space hazards.
8. The attendant takes the following actions when unauthorized persons approach or enter a permit space while entry is underway.
 - a. Warns the unauthorized persons they must stay away from the permit space.
 - b. Advises the unauthorized persons they must exit immediately if they have entered the permit space.
 - c. Informs the authorized entrants and the entry work team leader that unauthorized persons have entered the permit space.
 - d. Performs no duties which might interfere with his/her primary duty to monitor and protect the authorized entrants.

8.0 Rescue and Emergency Service

1. The Safety Department shall ensure that each member of the Rescue and Emergency Services is provided with and trained to use the personal protective equipment and rescue equipment necessary for making rescues from permit spaces.
2. Each member of the Rescue and Emergency Service shall be trained to perform his/her assigned rescue duties.

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3. Each member of the Rescue and Emergency Service shall practice making permit-space rescues at least once every 12 months. The practices shall include the following:

Simulated rescue operations in which they remove dummies, mannequins or actual persons from the actual permit space, or from representative permit spaces.

Representative permit spaces shall, with respect to opening size, configuration and accessibility, simulate the types of permit spaces from which a rescue is to be performed.

4. Each member of the Rescue and Emergency Service shall be trained in basic first aid and in cardiopulmonary resuscitation (CPR).

At least one member of the Rescue and Emergency Service holding a current certification in first aid and CPR shall be available.

Day/Night entries shall be on standby status only.

Shutdown modes shall require the Rescue team to be on the plant site for the shutdown duration.

The company shall inform all exposed employees, by posting danger signs or other equally effective means, of the existence and location of and the danger posed by permit spaces.

A sign reading 'DANGER—PERMIT-REQUIRED CONFINED SPACE, DO NOT ENTER' or other similar language would satisfy the requirement.

9.0 Permit System

The permit system is the employer's written procedure for preparing and issuing permits for entry and for returning the permit space to service following termination of entry.

10.0 Retrieval System

The retrieval system means the equipment used for a non-entry rescue of persons from inside a permit space.

11.0 Testing

Testing is the process by which the hazards which may confront entrants of a confined space are identified and evaluated.

Testing includes specifying the tests which are to be performed in the permit space.

The atmosphere within the space shall be periodically tested to ensure the continuous forced air ventilation is preventing the accumulation of a hazardous atmosphere.

12.0 Isolation

Isolation is the process by which a permit space is removed from service and is completely protected against the release of energy and material into the space by such means as:

- a. Blanking or blinding.
- b. Misaligning or removing sections of lines, pipes or ducts.
- c. A double block and bleed system.
- d. Lockout/tagout of all sources of energy.
- e. Blocking or disconnecting all mechanical linkages.

13.0 Line Breaking

Line breaking is the intentional opening of a pipe, line or duct which is or has been carrying flammable, corrosive or toxic material, an inert gas or any fluid at a volume, pressure or temperature capable of causing injury.

14.0 Permit Duration

The duration of the permit may not exceed the time required to complete the assigned task or job as identified in the "Purpose of Entry" section on the permit form.

Recordkeeping of Canceled Permits

The company shall retain each canceled entry permit for at least (1) one year to facilitate the review of the permit-required Confined Space Program.

Any problem encountered during an entry operation shall be noted on the pertinent permit so the appropriate revisions to the Permit Space Program can be made.

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15.0 Oxygen Deficient Atmosphere

Oxygen enriched atmosphere is an atmosphere containing more than 23.5% oxygen by volume.

Oxygen deficient atmosphere is an atmosphere containing less than 19% oxygen by volume.

16.0 Ventilation

Continuous forced air ventilation shall be used as follows:

- a. An employee may not enter the space until the forced air ventilation has eliminated any hazardous atmosphere.
- b. The forced air ventilation shall be so directed as to ventilate the immediate areas where an employee is or will be present within the space and shall continue until all employees have left the space.
- c. The air supply for the forced air ventilation shall be from a clean source and may not increase the hazards in the space.

17.0 Immediately Dangerous to Life or Health (IDLH)

IDLH is any condition which poses an immediate or delayed threat to life or which would cause irreversible adverse health effects or would interfere with the individuals' ability to escape unaided from a permit space.

18.0 Hot Work Permit

A hot work permit is the employer's written authorization to perform operations (for example: riveting, welding, cutting, burning and heating) capable of providing a source of ignition.

19.0 Host Employer

When the company (host employer) arranges to have employees of another employer (contractor) perform work which involves permit-space entry, the host employer shall:

- a. Inform the contractor that the work place contains "permit-required spaces" and that permit-space entry is allowed only through compliance with this Permit Space Procedure.

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- b. Apprise the contractor of the elements, including the hazards identified and the host employee's experience with the space, which make the space in question a permit-required space.
- c. Apprise the contractor of any precautions or procedures which the host employer has implemented for the protection of employees in or near permit spaces where the contractor employees will be working.
- d. Coordinate entry operations with the contractor when both host employer personnel and contractor personnel will be working in or near the permit spaces.
- e. Debrief the contractor at the conclusion of the entry operations regarding the Permit Space Program and any hazards confronted or created during entry operations.

20.0 Entry Permit

The Entry Permit is the permit which documents compliance and authorizes entry into a permit space.

The following information must be listed on the Space Entry Permit:

- a. List the permit space to be entered.
- b. List the purpose of the entry.
- c. List the date and the authorized duration of the entry permit.
- d. List by name the authorized entrants into the permit space.
- e. List by name the personnel serving as attendants.
- f. List by name the individual currently serving as entry work team leader, with a space for the signature or initials of the entry work team leader who originally authorized the entry.
- g. List the hazards of the Permit Space to be entered.
- h. List the measure used to isolate the Permit Space and the measures used to eliminate or control the hazards before entry.
- i. List the acceptable entry conditions.
- j. List the results and locations of initial and periodic tests performed, accompanied by the names or initials of the testers.
- k. List information on how to call rescue services.
- l. List the communication devices used by authorized entrants and attendants to maintain contact during the entry.
- m. List all equipment, such as personal protective equipment, testing equipment, communications equipment, alarm

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systems and rescue equipment, to be provided for compliance.

- n. List any other information whose inclusion is necessary, given the circumstances of the particular confined space, in order to ensure employee safety.
- o. Also list any additional permits, such as Hot Work Permit, which have been issued to authorize work in the permit space.

- p. The entry permit shall be posted at the entry location for the duration of the entry.

21.0 Rescue Team Notification and Release Notification

- 1. The entry work team leader shall call ext. 3269 or 3296 prior to each permit-required entry and advise security to place the rescue team on "standby".

The exact location of the entry shall be identified.

Upon completion of the entry, the entry work team leader shall call ext. 3269 or 3296 and advise security to place the rescue team on "stand-down" status.

Both calls shall be documented on the Confined Space Entry Permit.

- 2. Security Action - Upon receiving notification of a permit-required entry from the entry work team leader the security officer shall:
 - a. Complete form (attachment #2) on "standby" information and enter information in Confined Space Log Book.
 - b. Upon receiving notification of the termination of confined space entry from the entry work team leader, the security officer shall complete form (attachment #2) on "stand-down" information and enter information in Confined Space Log Book.

If rescue from the confined space is requested, notification is given to the San Manuel Fire Department via the command phone.

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Attachment 2 - Form for security officer's use.

22.0 Threshold Limit Value (TLV)

1. The TLV is determined by the American Conference of Industrial Hygienists.
2. The TLV is a guideline for control of potential health hazards.
3. The TLV is intended as a recommendation.

23.0 Permissible Exposure Limit (PEL)

1. The PEL is determined by OSHA.
2. The PEL sets limits for legal unprotected worker exposure to a particular toxic substance.

24.0 Preparing for the Entry

1. Obtain an entry permit.
2. Test the atmosphere in the space and assure it is acceptable for entry.
3. Install ventilation when needed.
4. Assign authorized entrants and train them to the hazards.
5. Assign attendants and train them to the hazards and their duties.
6. Notify the rescue team through security.
7. Assure all energy sources are locked/tagged-out: See section 12.0 on page 6.
8. Instruct the attendant on the procedure to take and record periodic testing.
9. Establish communications between authorized entrants and the attendant.

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10. Obtain and set up all special equipment, flagging, barriers, etc. to protect employees around the space area.
11. Complete the Entry Permit Form and post it at the entry.

25.0 During the Entry

During the entry the entry work team leader shall be responsible for the following:

1. Monitor activities of authorized entrants and attendant.
2. Assure the atmosphere is acceptable.
3. Assure equipment, flagging, barriers, etc. are in place.

26.0 Termination of Entry

At the termination of the entry, the entry work team leader shall be responsible for the following:

1. Assure all employees are out of the space.
2. Remove the ventilation.
3. Remove locks and tags—blanks, reconnect lines.
4. Place rescue team on "stand-down" (through Security).
5. Complete the Entry Permit and give to appropriate safety coordinator for filing.
6. Remove all flagging, barriers, etc.
7. Place all equipment back in proper storage.

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9 **BEFORE THE ARIZONA CORPORATION COMMISSION**

10 IN THE MATTER OF THE
11 APPLICATION OF CORONADO
12 UTILITIES, INC. FOR A CERTIFICATE
13 OF CONVENIENCE AND NECESSITY
14 TO PROVIDE WASTEWATER SERVICE
15 IN PINAL COUNTY, ARIZONA.

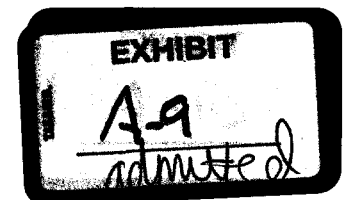
DOCKET NO. SW-04305A-05-0086

16 IN THE MATTER OF THE
17 APPLICATION OF CORONADO
18 UTILITIES, INC., AN ARIZONA
19 CORPORATION, FOR AUTHORITY TO
20 ISSUE SHORT AND LONG-TERM DEBT
21 INSTRUMENTS IN CONNECTION
22 WITH FINANCING THE ACQUISITION
23 OF THE WASTEWATER UTILITY
24 PLANT OF BHP COPPER, INC. AND
25 CONSTRUCTING IMPROVEMENTS
26 THERETO.

DOCKET NO. SW-04305A-05-0087

(Consolidated)

27 **REBUTTAL TESTIMONY OF JASON P. WILLIAMSON**



1 **I. INTRODUCTION.**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Jason P. Williamson and my business address is 6825 E. Tennessee,
4 Suite 547, Denver Co 80224.

5 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE COMMISSION IN**
6 **THIS PROCEEDING?**

7 A. Yes, on behalf of the applicant, Coronado Utilities, Inc. ("Coronado"), I testified
8 twice before the presiding administrative law judge. In addition, my Direct
9 Testimony for the January 27, 2006 hearing was prefiled on December 28, 2005.

10 **Q. WHY ARE YOU SUBMITTING THIS PREFILED REBUTTAL**
11 **TESTIMONY?**

12 A. To provide Coronado's response to the Second Amended Staff Report filed
13 January 17, 2006.

14 **Q. DOES CORONADO HAVE ANY OBJECTION TO THE ANALYSES OR**
15 **RECOMMENDATIONS CONTAINED IN THE SECOND AMENDED**
16 **STAFF REPORT?**

17 A. Just one. Staff's recommendation that the Commission order Coronado to file a
18 rate case 15 months after the new wastewater facility is constructed and phase two
19 rates take effect is ill-advised. As a compromise, we recommend that the
20 Commission require a rate filing no less than 24 months after the phase two rates
21 take effect.

22 **II. RESPONSE TO SECOND AMENDED STAFF REPORT.**

23 **Q. HAVE YOU REVIEWED THE SECOND AMENDED STAFF REPORT?**

24 A. Yes, and as stated, we are in agreement with Staff on this report, including the Staff
25 recommendations, with the exception of Staff's recommendation that Coronado be
26 ordered to file a rate case within 15 months of phase two rates going into effect.

1 **Q. PLEASE DESCRIBE THE RATE PHASING BEING RECOMMENDED BY**
2 **STAFF AND CORONADO?**

3 A. In my direct testimony filed in December, Coronado proposed to add a third phase
4 to the implementation of new rates. Phase one would take effect upon issuance of
5 a Commission order approving the requested CC&N and remain in effect until the
6 new wastewater treatment facility is completed. Phase two rates would take effect
7 when the new plant is in service, approved by ADEQ and after notice is provided
8 to customers. Phase two, which is being made possible by a subsidy from BHP
9 Copper, would remain in effect for 12 months, at which time the third and final
10 phase would take effect. Staff has accepted this proposal without material change.

11 **Q. DID STAFF PREVIOUSLY RECOMMEND THAT THE COMMISSION**
12 **REQUIRE CORONADO TO FILE A RATE CASE?**

13 A. Yes, Staff recommended that the Company file a rate case after three full years of
14 operation, a recommendation that Coronado accepted. In the Second Amended
15 Staff Report, Staff now seeks to move that filing up and recommends that it be
16 made 15 months after the plant is completed and the second phase rates take effect.

17 **Q. DOES STAFF EXPLAIN THE REASON FOR CHANGING ITS**
18 **RECOMMENDATION?**

19 A. Staff merely asserts that this recommendation will insure that rates and costs are
20 synchronized.

21 **Q. DOES CORONADO AGREE?**

22 A. No, if anything, Staff's accelerated timetable for a rate case will make it more
23 likely that Coronado's rates and costs are not synchronized.

24 **Q. WHY IS THAT MR. WILLIAMSON?**

25 A. Because a rate case filed 15 months after the new wastewater treatment facility is
26 brought into service is too soon. Let's assume that the new plant is placed on line

1 and the phase two rates go into effect on January 1, 2007. Under Staff's
2 recommendation, a rate case would have to be filed by March 31, 2008. In order to
3 meet that deadline, it is unlikely we would even have a full test year of operating
4 expenses with the new plant in service because it is likely to take us 4-6 months to
5 prepare a rate case.

6 **Q. WOULD IT BE APPROPRIATE TO FILE A RATE CASE BASED ON A**
7 **TEST YEAR THAT DID NOT INCLUDE 12 MONTHS OF OPERATING**
8 **THE NEW TREATMENT FACILITY?**

9 A. Absolutely not. The operating expenses of a brand new facility that are being used
10 to set new rates would not bear a realistic relationship to Coronado's true costs of
11 operating during the period new rates will be in effect.

12 **Q. COULDN'T CORONADO MOVE MORE QUICKLY AND PREPARE A**
13 **RATE CASE IN THREE MONTHS BASED ON A TEST YEAR ENDING**
14 **DECEMBER 31, 2007?**

15 A. Frankly, I don't know, but let's assume we can—that still does not mean that the
16 filing would be based on data that accurately reflects Coronado's costs of operating
17 with the new treatment plant in service.

18 **Q. WHY IS THAT MR. WILLIAMSON?**

19 A. Because it is unrealistic to assume that the plant will go into operation on January 1
20 and there will be no significant changes that impact operating expenses during the
21 first 12 months. Most problems with a new facility will become known in the first
22 year and steps taken to address those problems will likely have an effect on
23 Coronado's operating expenses. Requiring us to file a rate case based on a test
24 year that includes the start up of the new plant runs the risk that our test year
25 operating expenses will not accurately reflect our costs during the period the new
26 rates will be in effect. In fact, while I cannot be certain, I would venture to guess

1 that Staff's recommendation will result in artificially high rates because it is likely
2 that the longer we can operate the new facility before seeking rate increases the
3 more likely we can address any operational issues and, if possible, find ways to
4 reduce costs.

5 **Q. WHAT DOES CORONADO RECOMMEND?**

6 A. We recommend that a rate case be required no less than 24 months after the new
7 plant is in service and the phase two rates go into effect. That would leave us 6-8
8 months to operate the plant and address any issues, 12 months for a test year and 4-
9 6 months to prepare and file the rate case. This way we can maximize the
10 likelihood that the test year operating expenses will bear a close relationship to the
11 costs that will be incurred on a going-forward basis, a benefit to both Coronado and
12 its customers.

13 **Q. DOES THAT CONCLUDE YOUR REBUTAL TESTIMONY?**

14 A. Yes.

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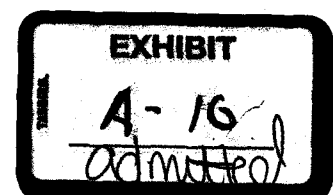
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DOCKET NO. SW-04305A-05-0087

(Consolidated)

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21 **TESTIMONY OF JOHN W. CLINGMAN**
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1 **I. INTRODUCTION.**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. John W. Clingman, 220 Malibu Street, Castle Rock, CO 80109.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am employed by Santec Corporation ("Santec") as President. I am also a 50%
6 owner of Santec along with Dwight L. Zemp. Santec is in the business of
7 designing and installing wastewater treatment facilities to utility customers.
8 Typically, we design the necessary capacity, then purchase manufactured treatment
9 modules for connection to a wastewater collection system.

10 **Q. HOW DID YOU GET STARTED IN THE UTILITY INDUSTRY?**

11 A. After graduating from college in Iowa, I moved to Colorado and took a job with
12 Sanilogical Corporation, a company that built wastewater treatment equipment. I
13 worked there for 13 years until 1987, when Mr. Zemp and I formed Santec.

14 **Q. WHAT ABOUT PIVOTAL UTILITY MANAGEMENT. WHEN WAS IT**
15 **FORMED AND WHAT IS YOUR INTEREST?**

16 A. In 1999, Pivotal Utility Management ("Pivotal") was formed together by me, Mr.
17 Zemp and Jason Williamson. Through Pivotal I am a part owner of Pine Meadows
18 Utility; Verde Santa Fe Wastewater Utility; Bensch Ranch Utility, Sweetwater
19 Utility and Coronado Utilities, Inc. ("Coronado"), the applicant in this matter.

20 **Q. PLEASE SUMMARIZE YOUR RESPONSIBILITIES AS THEY RELATE**
21 **TO PIVOTAL.**

22 A. I have a membership interest but do not provide day-to-day management or
23 operational services to Pivotal or any of its affiliates, including Coronado. Mr.
24 Williamson is solely responsible for managing Pivotal's day-to-day operations.

1 Q. HAVE YOU PREVIOUSLY PROVIDED TESTIMONY IN THIS
2 PROCEEDING?

3 A. No, although I was present at the second hearing in September, 2005, and available
4 to answer questions concerning the death of Gary Lanser, a Santec employee, on
5 October 24, 2001, at the Far West Water and Sewer Company, Inc. ("Far West")
6 wastewater treatment plant in Yuma, Arizona. Prior to that, after the issue was
7 raised by Staff in June, 2005, I consulted with Staff to discuss the circumstances
8 surrounding the event, the impacts on Santec and of course, to answer questions
9 about ongoing safety procedures employed by Santec. After Staff made its
10 recommendations for additional safety conditions applicable to Coronado, and did
11 not question me at the second hearing, I concluded that we had sufficiently
12 addressed any possible connection between the terrible tragedy in Yuma that took
13 two lives, including Mr. Lanser's, and Coronado's application for a new Certificate
14 of Convenience & Necessity ("CC&N") to provide wastewater service in San
15 Manuel, Arizona.

16 Q. WHY ARE YOU SUBMITTING THIS TESTIMONY AT THIS TIME?

17 A. Because at the December 6, 2005, Open Meeting, the Commission expressed
18 concern that the incident involving Santec might negatively impact Coronado's
19 ownership and operation of a sewer utility system in San Manuel, Arizona.

20 Q. IS THERE A CONNECTION BETWEEN THE DEATH OF A SANTEC
21 EMPLOYEE IN OCTOBER 24, 2001, AND THE PROVISION OF SEWER
22 SERVICE BY CORONADO?

23 A. In my opinion, no, and by providing additional information to the Commission at
24 this time, I hope to convince the Commissioners of this as well.

1 **II. FATAL ACCIDENT INVOLVING SANTEC EMPLOYEE GARY LANSER.**

2 **Q. PLEASE EXPLAIN THE EVENTS THAT RESULTED IN MR. LANSER'S**
3 **DEATH ON OCTOBER 24, 2001.**

4 A. Santec had contracted with Far West to rehabilitate and repair three separate
5 wastewater treatment plants located in the Mesa Del Sol subdivision in Yuma,
6 Arizona. Santec employees had successfully completed rehabilitation of two of the
7 treatment plants when work on the third system began the morning of October 24,
8 2001.

9 Three Santec employees were on site working the entire day with several
10 Far West employees. At about 5:00 pm, our employees had completed installation
11 of a new pumping system in the lift station and were working outside the fenced
12 perimeter on another phase of the project. At that same time, Far West employees
13 were attempting to put the lift station back into service.

14 Our employees heard excited screams from a Far West employee and ran
15 back to the lift station to see what had happened. At the lift station, they
16 discovered that one of the Far West employees had entered the lift station to
17 remove a sewer plug and was overcome by fumes. Shortly thereafter, another Far
18 West employee attempted to rescue the first person and was also overcome by
19 fumes. It was Gary Lanser, our field supervisor, who elected to try to rescue the
20 two Far West employees. I can only assume Mr. Lanser made this decision on the
21 spur of the moment, under unimaginable pressure, and elected not to contact Mr.
22 Zemp or myself, and ignored the other Santec employees who pleaded with him
23 not to enter the lift station.

24 After entering the lift station, Mr. Lanser was also overcome by the fumes.
25 Mr. Lanser and one of the Far West employees died as a result of exposure to the
26

1 sewer gases in the lift station, even though one of the Far West employees who had
2 entered the lift station was safely rescued.

3 **Q. WHAT WAS MR. LANSER'S ROLE WITH THE COMPANY?**

4 A. Mr. Lanser was a Professional Engineer responsible for overseeing the setup and
5 startup of wastewater treatment facilities designed and manufactured by Santec.
6 Prior to his employment with Santec, Mr. Lanser worked in the hazardous
7 materials handling and disposal industry.

8 **Q. DOES FACILITY REHABILITATION CONSTITUTE A SIGNIFICANT**
9 **PORTION OF SANTEC'S BUSINESS ACTIVITIES?**

10 A. No. Santec's primary business is the design, manufacture and installation of
11 modular wastewater treatment plants. Rehabilitation and repair of operating
12 facilities is a small part of our total business activity. For that reason, we are
13 infrequently working on site where permit-required confined space entries are
14 required.

15 **Q. DOES SANTEC PROVIDE ANY OPERATIONAL SUPPORT FOR**
16 **WASTEWATER TREATMENT FACILITIES?**

17 A. Generally, no - our employees do not operate wastewater treatment facilities.
18 Santec employees may be required to be on-site to observe a wastewater treatment
19 facility in operation in order to identify and determine reasons a plant is not
20 functioning properly. Furthermore, it was and is Santec's policy not to allow
21 employees to enter permit-required confined areas at these facilities, which are
22 areas where hazardous substances are present and safety equipment is required.
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1 Q. IF SANTEC'S POLICIES AND PROCEDURES PROHIBITED ENTRY
2 INTO CONFINED SPACES WHEN HAZARDOUS GASES WERE
3 PRESENT, HOW WAS MR. LANSER KILLED?

4 A. Because Mr. Lanser made a decision to ignore the policy and attempt a heroic
5 rescue.

6 Q. MR. CLINGMAN, AREN'T YOU JUST BLAMING THE VICTIM?

7 A. No, I am just stating the facts. Mr. Zemp and I lost more than our employee that
8 day, we lost a close personal friend and I would never attempt to trivialize that loss.
9 Unfortunately, the inescapable truth is that Gary Lanser made a split second
10 decision – contrary to Santec's policy – to enter a hazardous confined area in a
11 rescue attempt. While I can hardly imagine the pressure Mr. Lanser felt he was
12 under, I can say that under no circumstance would either Mr. Zemp or I have
13 authorized such action, since working in hazardous confined areas is not permitted
14 for our employees.

15 Q. DID MR. LANSER HAVE ANY SAFETY TRAINING?

16 A. Yes, Mr. Lanser was trained in confined space entry, having completed the 40 hour
17 Occupational Safety and Health Administration ("OSHA") course, as well as a
18 number of 8 hour "refresher" courses. Mr. Lanser received his initial training
19 during his previous employment with a hazardous materials company specializing
20 in dealing with confined space entry.

21 Q. WAS SAFETY EQUIPMENT AVAILABLE TO MR. LANSER ON THE
22 DATE OF THE ACCIDENT?

23 A. Because our employees were not supposed to enter permit required confined space
24 areas, we did not provide the type of safety equipment that would have allowed Mr.
25 Lanser to enter the confined space area safely. Of course, such
26

1 equipment is designed to allow planned entry into hazardous areas. It is doubtful
2 such equipment would have aided Mr. Lanser in his emergency rescue attempt.

3 **Q. SO SANTEC RELIED ON ITS SAFETY POLICY TO PROTECT ITS**
4 **EMPLOYEES?**

5 **A.** Because Santec has directed employees not to enter into any permit-required
6 confined areas. A copy of Santec's written safety policies and procedures in place
7 at that time of the accident are attached hereto as Clingman Exh. 1. Again, if a
8 Santec employee encountered dangerous conditions during the course of his or her
9 work, he or she was instructed to contact either myself or Dwight Zemp to
10 determine what procedures might be employed to alleviate the dangerous
11 conditions. However, if these procedures proved unsuccessful and the dangerous
12 conditions were still present, employees would be directed to discontinue work
13 until such time that the conditions were improved.

14 **III. EVENTS FOLLOWING MR. LANSER'S DEATH**

15 **Q. WHAT ROLE DID YOU PLAY IN RESPONDING AFTER THE**
16 **ACCIDENT OCCURRED?**

17 **A.** While Mr. Zemp returned to Colorado to assist Mr. Lanser's family and oversee
18 the response activity in Santec's home office, I immediately flew to Yuma,
19 Arizona. Inspectors from the Arizona Division of Occupational Safety and Health
20 ("ADOSH") inspectors visited the site the next day to investigate the accident. I
21 was there to assist in the investigation, and represent Santec to answer any
22 questions that the ADOSH inspector had.

23 **Q. WHAT WERE THE RESULTS OF ADOSH'S INVESTIGATION?**

24 **A.** Santec was cited for alleged violations related to permit-required confined areas.
25 Because it was against Santec's policy to even allow its employees to enter such
26 areas, Mr. Zemp and I did not believe the cited OSHA regulations applied.

1 However, due to the circumstances of the accident, various business-related
2 concerns and the realization that compliance with such regulations would improve
3 the overall safety of its employees, we elected to settle the administrative case and
4 move forward. On October 23, 2002, the Industrial Commission of Arizona issued
5 an order, based on Santec's settlement with ADOSH, concluding that Santec had
6 violated OSHA regulations. Santec was fined \$26,250, which was promptly paid.
7 A copy of the order is attached hereto as Clingman Exh. 2.

8 **Q. DID SANTEC CHANGE ITS SAFETY POLICY AND PROCEDURES AS A**
9 **RESULT OF THE ADOSH REPORT?**

10 A. After reviewing the circumstances of the accident, speaking with ADOSH
11 representatives, and reviewing numerous documents and guidelines related to
12 safety issues in permit-required confined spaces, we concluded that additional
13 safety measures were warranted. These additional safety measures are formalized
14 in Santec's current written safety policy, attached hereto as Clingman Exh. 3.

15 Santec has gone to great lengths to make sure every employee or contractor
16 places the highest possible priority on workplace safety. Before they are in a
17 position to face hazardous circumstances, all employees are required to attend
18 safety training classes to better understand the safety issues they are likely to
19 encounter in their work and to learn how to respond, safely, when they encounter
20 such a situation. We have also purchased safety equipment, trained our employees
21 in its use and require that it be available on site at all times. However, despite our
22 acknowledging and complying with the recommendations of ADOSH and OSHA,
23 mandating that this safety equipment is always available to and for our employees'
24 safety, it remains our policy that hazardous permit-required confined space is
25 strictly prohibited.

26

1 Q. WHAT HAPPENED FOLLOWING YOUR SETTLEMENT WITH THE
2 INDUSTRIAL COMMISSION?

3 A. Criminal proceedings against Santec, Mr. Zemp and me were brought by the
4 Arizona Attorney General's office. Mr. Zemp and I were initially indicted by the
5 Grand Jury, however, the Judge ruled that the Attorney General had not properly
6 disclosed to the Grand Jury all the facts surrounding our involvement in the matter
7 and remanded the indictment back to the Grand Jury. The Grand Jury was
8 unwilling to support an indictment the second time, after full disclosure of the facts
9 concerning our involvement and, as individuals, the charges against us were
10 dismissed.

11 Q. DID THE CRIMINAL PROCEEDING AGAINST SANTEC PROCEED?

12 A. Yes, for roughly three years. Ultimately, under the weight of tremendous legal
13 expense – and considerable deliberation between myself, Mr. Zemp and our
14 attorney – we decided to enter a plea agreement on behalf of Santec. In August
15 2005, Santec entered a plea of guilty/no contest to "Violating Safety Standard and
16 Causing The Death of an Employee" and was sentenced to two (2) years probation
17 and to pay restitution of \$30,000 to the victims, which was promptly paid. The
18 sentencing order and proof of payment are attached hereto as Clingman Exh. 4.

19 Q. WHY DID SANTEC PLEAD GUILTY RATHER THAN GO TO TRIAL?

20 A. Santec is a small business with limited resources. By August 2005, Santec had
21 spent more than \$250,000 on legal fees, plus the tremendous amount of manpower
22 required of Mr. Zemp and myself. We were also extremely sensitive to the impact
23 of a trial on Mrs. Lanser, which would have further prolonged her grief. We made
24 a decision to plead in an attempt to put this horribly unfortunate accident behind us.
25 I remain convinced that this decision was in the best interests of everyone involved.
26

1 Q. ARE SANTEC'S EMPLOYEES SAFER TODAY THAN THEY WERE
2 BEFORE THE ACCIDENT THAT COST MR. LANSER HIS LIFE?

3 A. Yes, to the greatest extent possible. We have reiterated and strengthened our
4 prohibition against hazardous permit-required confined space entry. We have
5 provided safety equipment and training. We all have a greater sense of the dangers
6 of entering such areas without taking adequate safety procedures. Beyond that, we
7 must rely on our employees to adhere to the applicable policies and procedures, as
8 does any business where employees can be exposed to hazardous materials.

9 IV. RELATIONSHIP OF SANTEC INCIDENT TO THIS DOCKET.

10 Q. DO YOU BELIEVE THAT MR. LANSER'S DEATH OR SANTEC'S PLEA
11 AGREEMENT ADVERSELY IMPACT CORONADO'S ABILITY TO
12 PROVIDE WASTEWATER TREATMENT SERVICES TO RESIDENTS IN
13 SAN MANUEL, ARIZONA?

14 A. Absolutely not. I accept the Commission's desire to know more about the accident
15 that occurred on October 24, 2001. For this reason, I was entirely cooperative
16 when Staff sought information, and I made myself available as a witness at the
17 hearing. But gathering information and making sure that Coronado has adequate
18 safety measures in place to minimize the possibility of a similar incident should be
19 the extent of that inquiry. I do not believe that the commonality of ownership
20 between Santec and Pivotal, and thereby Coronado, through Mr. Zemp and myself,
21 leads to a concern that similar events will occur at a Coronado facility.

22 Q. WHY IS THAT MR. CLINGMAN?

23 A. Pivotal has ownership interests in and operates several Arizona water and
24 wastewater utilities. These facilities have an excellent track record of compliance
25 with the Commission's rules and orders and health and safety regulations at the
26 federal, state and local level. Mr. Lanser's death was a horrible tragedy for which

1 Mr. Zemp and I have paid both financially and personally. However, it is not
2 evidence of how Pivotal will operate a sewer utility in San Manuel, Arizona. I
3 would also like to point out that Santec has successfully designed and
4 manufactured over two hundred (200) wastewater treatment facilities in the United
5 States and abroad. The unfortunate and tragic events of October 24, 2001, was an
6 isolated incident – one that Santec has worked hard to ensure will not happen
7 again.

8 **Q. DO YOU BELIEVE THAT THE COMMISSION SHOULD GRANT**
9 **CORONADO A CC&N?**

10 A. Yes. Coronado has demonstrated at every stage of this proceeding that it is a fit
11 and proper entity to provide sewer utility service under the requested CC&N, and
12 the evidence clearly shows that the requested CC&N is in the public interest.

13 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

14 A. Yes.

15 1746442/12923.001
16
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23
24
25
26

EXHIBIT

1

WORKER SAFETY

CONFINED SPACE WORKING ENVIRONMENT POLICY

In order to provide information necessary for Santec employees to enjoy a productive and safe working environment each employee working in the field with customers of Santec Corporation is required to read and become familiar with chapter 14, Plant Safety and Good Housekeeping in the manual titled "Operation of Wastewater Treatment Plants, a field study training program, fourth edition, Volume 2.

Field service personnel working with the setup, calibration and start up of equipment at new facilities will need to work in areas where there is a possible risk associated with the area where they are required to work. Each employee should be familiar with potential safety issues typically found in wastewater treatment facilities and to conduct their activities in a safe and prudent manner.

An employee encountering a situation that may constitute an unsafe working environment should immediately contact the Project Manager and if not available John W. Clingman, President at 303-660-9211 at ext. 12 or Dwight L. Zemp Vice President at 303-660-9211 ext. 11 to report the situation and obtain further instructions.

Prohibited Activities

Entry into any confined space that is or has been in service without approval of the Project Manager, Vice President or President is prohibited.

Each facility Owner / Operator is required by law to have in place and comply with an approved 'Confined Space Entry Program'.

Confined Space Acceptable Activities

Entry into a confined space associated with a new facility that has not been in service and where there is no possibility of a hazardous atmosphere is permitted.

CONFINED SPACE GUIDELINES (PRE-ENTRY CHECKLIST)

Do not enter a confined space until you have considered every question and have determined the space to be safe to be entered.

1. Is entry necessary? (yes) (no)
2. Has the space been cleaned before entry? (yes) (no)
3. Has the space been ventilated before entry? (yes) (no)
4. Will ventilation be continued during entry? (yes) (no)
5. Is the air intake for the ventilated system located in an area that is free of combustible dusts, vapors and toxic substances? (yes) (no)
6. Has space been isolated from other systems? (yes) (no)

If the answer to these questions is yes proceed with the work. If the answer to any of these questions is no, no work in the confined space is allowed until prior clearance is given from the onsite Project Manager or John W. Clingman, President, or Dwight L. Zemp, Vice President.

EXHIBIT

2

BEFORE THE INDUSTRIAL COMMISSION OF ARIZONA

DIVISION OF OCCUPATIONAL SAFETY)	
AND HEALTH OF THE INDUSTRIAL)	Inspection No. K0234-0004/
COMMISSION OF ARIZONA,)	304944523
Complainant,)	
vs.)	FINDINGS AND ORDER
	CONFIRMING
	SETTLEMENT AGREEMENT
SANTEC CORPORATION,)	
Respondent.)	

On January 7, 2002, the Division of Occupational Safety and Health of the Industrial Commission of Arizona ("ADOSH") issued six Serious Citations, (one being a grouped citation) to the Respondent Employer. The citations are:

Citation 1, Item 1, alleged a "serious" violation of 29 CFR 1910.146(C)(1) with a corresponding proposed penalty of \$7,000.00. ADOSH alleged in this citation that the employer did not evaluate the workplace to determine if any spaces were permit-required confined spaces.

Citation 1, Item 2, alleged a "serious" violation of 29 CFR 1910.146(C)(4) with a corresponding proposed penalty of \$7,000.00. ADOSH alleged in this citation that when the employer decided that its employees would enter permit spaces, the employer did not develop and implement a written

permit space entry program that complied with 29 CFR 1910.146.

Citation 1, Items 3a and 3b, a grouped citation, alleged a "serious" violations of 29 CFR 1910 (c)(9)(1) for Item 3a and violation of 29 CFR 1910.146(c)(9)(ii) for Item 3b with a corresponding, proposed group penalty of \$7,000.00. ADOSH alleged in this citation item 3a that the employer as a subcontractor did not obtain information regarding permit space hazards from the owner. ADOSH alleged in this citation Item 3b that the employer did not coordinate entry operations in a confined space.

Citation 1, Item 4, alleged a "serious" violation of 29 CFR 1910.146(c)(e)(1) with a corresponding proposed penalty of \$7,000.00. ADOSH alleged in this citation that before entry was authorized, the employer did not document the completion of measures required by 29 CFR 1910.146(d)(3) by preparing an entry permit.

Citation 1, Item 5, alleged a "serious" violation of 29 CFR 1910.146(g)(1) with a corresponding proposed penalty of \$7,000.00. ADOSH alleged in this citation that the employer did not provide training so that all employees whose work was regulated by 29 CFR 1910.146, permit-required confined spaces, acquired the understanding, knowledge and skills necessary for the safe performance of the duties.

The Respondent Employer filed a timely Request for Hearing and formal hearing was scheduled to be convened in Phoenix, Arizona on September 5, 2002 at 10:00 a.m. On ^{October} ~~September~~ 18, 2002, the parties filed a Settlement Agreement resolving the issues to be determined at hearing.

The undersigned, having fully considered the file, records and all other relevant matters, now enters Findings and Conclusions and Order as follows:

FINDINGS AND CONCLUSIONS

1. On ^{October} ~~September~~ 18, 2002, the parties filed a Settlement Agreement resolving all issues and disputes involved in this matter. The Settlement Agreement appears to be consistent with the provisions and objectives of the Arizona Occupational Safety and Health Act. Accordingly, pursuant to A.A.C. R20-5-827 of the Occupational Safety and Health Rules of Procedure Before The Industrial Commission of Arizona, said Settlement Agreement is by this reference adopted herein and made a part hereof.

2. By the terms of said Settlement Agreement (attached hereto as Exhibit "A" and incorporated herein by this reference), without admitting liability for the

citation, Respondent agrees to pay a reduced penalty in the sum of \$26,250.00.

3. The Respondent represents as a material fact leading to the Settlement Agreement that the violations cited in all Citations, whether admitted or not, have been abated and the company is in compliance as of the date of the Settlement Agreement.

4. The parties acknowledge that the Settlement Agreement entered into and which is approved herewith does not preclude the Division from issuing repeat and/or willful citations for conduct involving violations of the same or a substantially similar condition as that involved in this matter.

ORDER

IT IS HEREBY ORDERED that the Respondent without admission, has accepted a reduced penalty of twenty-five percent for all citations. Further, Citation 1, Items 1, 4 and 5 are "unclassified" rather than serious classifications. The reduced penalty in the total sum of twenty-six thousand two hundred fifty dollars (\$26,250.00) is hereby assessed.

NOTICE:

Any party dissatisfied with this Decision may request review to the Review Board by filing a written request with the Administrative Law Judge Division of the Industrial Commission within Fifteen (15) Days after service of this Decision as provided by Arizona Revised Statutes, §§ 23-421 C and 23-423 A and B. If no such request is made within the time provided, this Decision becomes final.

By: Harriet T. Turney
Honorable Harriet Turney
Presiding Administrative
Law Judge

DATED AND MAILED IN PHOENIX/TUCSON, ARIZONA, THIS 22nd DAY
OF OCTOBER, 2002.

1 Ronald M. Andersen
2 Attorney No. 007165

3 BEFORE THE INDUSTRIAL COMMISSION OF ARIZONA

4 DIVISION OF OCCUPATIONAL SAFETY)
5 AND HEALTH OF THE INDUSTRIAL)
6 COMMISSION OF ARIZONA,)

7 Complainant,)

Inspection No. K0234-0004/
304944523

8 vs.)

9 SANTEC CORPORATION,)

10 Respondent.)

SETTLEMENT AGREEMENT

11
12 WHEREAS, the DIVISION OF OCCUPATIONAL SAFETY AND HEALTH of
13 the Industrial Commission of Arizona (ADOSH) issued six serious
14 citations (one being a grouped citation), to-wit:

15 Citation 1, Item 1, alleged a "serious" violation of 29 CFR
16 1910.146(C)(1) with a corresponding proposed penalty of
17 \$7,000.00. ADOSH alleged in this citation that the employer did
18 not evaluate the workplace to determine if any spaces were
19 permit-required confined spaces.

20
21 Citation 1, Item 2, alleged a "serious" violation of 29 CFR
22 1910.146(C)(4) with a corresponding proposed penalty of
23 \$7,000.00. ADOSH alleged in this citation that when the
24 employer decided that its employees would enter permit spaces,
25 the employer did not develop and implement a written permit
26 space entry program that complied with 29 CFR 1910.146.

1 Citation 1, Items 3a and 3b, a grouped citation, alleged a
2 "serious" violations of 29 CFR 1910 (c)(9)(1) for Item 3a and
3 violation of 29 CFR 1910.146(c)(9)(ii) for Item 3b with a
4 corresponding, proposed group penalty of \$7,000.00. ADOSH
5 alleged in this citation item 3a that the employer as a
6 subcontractor did not obtain information regarding permit space
7 hazards from the owner. ADOSH alleged in this citation Item 3b
8 that the employer did not coordinate entry operations in a
9 confined space.

10 Citation 1, Item 4, alleged a "serious" violation of 29 CFR
11 1910.146(e)(1) with a corresponding proposed penalty of
12 \$7,000.00. ADOSH alleged in this citation that before entry was
13 authorized, the employer did not document the completion of
14 measures required by 29 CFR 1910.146(d)(3) by preparing an entry
15 permit.

17 Citation 1, Item 5, alleged a "serious" violation of 29 CFR
18 1910.146(g)(1) with a corresponding proposed penalty of
19 \$7,000.00. ADOSH alleged in this citation that the employer did
20 not provide training so that all employees whose work was
21 regulated by 29 CFR 1910.146, permit-required confined spaces,
22 acquired the understanding, knowledge and skills necessary for
23 the safe performance of the duties.

24 WHEREAS, Santec Corporation, the Respondent, filed a timely
25 notice of contest and petition for hearing with respect to the
26 citation; and
27

1 WHEREAS, the Respondent and ADOSH now desire to settle this
2 matter without the necessity of a formal hearing;

3 NOW, THEREFORE, the parties agree as follows:

4 1. Respondent does not admit the citations above recited
5 and enters into this Agreement to resolve the dispute.

6 2. ADOSH will reduce the penalties in all citations
7 twenty-five percent from an aggregate of \$35,000.00 to
8 \$26,250.00 (or individually from \$7,000.00 to \$5,250.00).

9 3. ADOSH will reclassify Citation 1, Items 1, 4, and 5
10 from a "serious" classification to an "unclassified" status.
11 The parties acknowledge that the payment is made without
12 prejudice to the Respondent and, also, that this Settlement
13 Agreement does not preclude ADOSH from issuing repeat and/or
14 willful citations for conduct involving violations of the same
15 or a substantially similar condition as that involved in this
16 matter.
17

18 4. That the Respondent by this Settlement Agreement moves
19 to withdraw its protest for hearing with regard to the
20 referenced citation. This withdrawal is conditioned upon the
21 presiding administrative law judge, pursuant to A.A.C. R20-5-828
22 of the Occupational Safety and Health Rules of Procedure Before
23 The Industrial Commission of Arizona waiving the legal effect of
24 A.A.C. R20-5-817 with regard to this matter and specifically
25 finding that by entering into this Settlement Agreement
26 Respondent does not admit the liability for any involved
27

1 citation or penalty and has entered into this Agreement to
2 resolve the conflict.

3 5. The Respondent represents as a material fact leading
4 to this Settlement Agreement that the violations cited in all
5 citations whether admitted or not, have been abated and the
6 company is in compliance as of the date of this Settlement
7 Agreement.

8 6. This Settlement Agreement is in furtherance of the
9 purpose of industrial safety and the Arizona Occupational Safety
10 and Health Act of 1972.

11 7. This Settlement Agreement is a full and final
12 determination of this matter and obviates any need for and
13 constitutes a waiver of the right to hearing or any alternate
14 determination on the merits of the citation or the stated
15 penalties.
16

17 8. Payment of the above stated penalty is to be made at
18 the time of the signing of this agreement.

19 INDUSTRIAL COMMISSION OF ARIZONA
20 DIVISION OF OCCUPATIONAL SAFETY
AND HEALTH

21 By: 
22 Ronald M. Andersen, Attorney

23 DATED: _____

24 SANTEC CORPORATION

25 By: 
26

27 DATED: 10-11-02

1 ORIGINAL hand delivered this
2 _____ day of September, 2002, to:

3 Honorable Harriet Turney
4 Presiding Administrative Law Judge
5 Industrial Commission of Arizona
6 800 West Washington Street
7 Phoenix, Arizona 85007

8 Copies mailed/hand delivered this
9 _____ day of _____, 2002, to:

10 Stephen Hoffman, Esq.
11 Worker, Sitko & Hoffman, L.L.C.
12 101 North 1st Avenue, Ste. 2075
13 Phoenix, Arizona 85003
14 Attorney for Respondent

15 Darin Perkins, Director
16 Division of Occupational Safety and Health
17 Industrial Commission of Arizona
18 800 West Washington
19 Phoenix, AZ 85007

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F:\RonA\Santec Corp\OSHA settlement agreement 2001.doc

EXHIBIT

3

EMPLOYEE HANDBOOK

replacement income, temporary disability, permanent partial disability, permanent total disability, and medical expenses.

SECTION V - SAFETY

SAFETY REGULATIONS

GENERAL SAFETY REGULATIONS

Your safety, on and off the job, is vitally important to your family and to your Company. The following rules are written and enforced to help protect everyone in the building, on Company property, and at customer sites. These may not cover every situation, but they outline most of the precautions you should follow.

- A. Practical jokes, horseplay, running and fighting are forbidden.
- B. All personnel shall wear protective equipment when required to work in designated areas that require such equipment.
- C. Report any known dangerous practice, faulty equipment, machines, etc. to your immediate supervisor.
- D. Observe speed and traffic regulations.
- E. Never distract, interrupt or annoy another worker unnecessarily as it may cause an accident.
- F. No person shall get on, or off, any truck, or other mobile equipment, while it is in motion.
- G. Only authorized personnel shall operate mobile equipment.
- H. No one shall ride trucks of the type not normally rider operated.
- I. Personnel handling chemical or caustic materials shall wear proper protective equipment.
- J. All product and material shall be stacked safely, using proper procedures and never to exceed a safe height.
- K. All employees must read and acknowledge the safety procedures as outline in the Santec Corporation safety program. All employees must attend all safety programs offered by the company and apply the appropriate procedures to their work environment.

Worker Safety Confined Space Working Environment Policy

In order to provide information necessary for Santec employees to enjoy a productive and safe working environment each employee working in the field with customers of Santec Corporation are required to read and become familiar with chapter 14, Plant Safety and Good Housekeeping taken from the Operation of Wastewater Treatment Plants, Field Study Training Manual. A copy of which is attached to this policy sheet. The complete set of Operator training manuals are available in Santec Corporation main office located at 220 Malibu St., Castle Rock, CO 80104.

Field service personnel will typically be working with the setup, calibration and start up of new facilities and therefore many of the risk associated with wastewater treatment facilities will not be encountered, however, each employee should be familiar with safety issues and procedures typically found at wastewater treatment facilities and to conduct their activities in a safe and prudent manner.

Any employee encountering a situation that in the mind of the employee may constitute an unsafe working environment where their safety and health may be at risk should immediately contact either John W. Clingman at 303-660-9211 at ext. 12 or Dwight L. Zemp 303-660-9211 ext 11 to report the situation and obtain further instructions.

Prohibited Activities

Entry into any confined space associated with a facility that is or has been in service without following and complying with the procedures set forth in chapter 14, "Plant Safety and Good Housekeeping" contained in the manual of Operation of Wastewater Treatment Plants, Field Study Training Program is strictly forbidden. Each facility Owner / Operator is required by law to have a 'Confined Space Entry Program' that must be followed before entering or performing work in a confined space area. The facility Owner / Operator is responsible for cleaning and preparing a confined space for entry and the performance of work.

Entry into a confined space associated with a facility that has been in service and certified as safe for entry and the conductance of work without the use of ventilation equipment is prohibited.

Confined Space Acceptable Activities

Entry into a confined space associated with a new facility that has not been in service and where there is no possibility of a hazardous atmosphere is permitted when done in accordance with confined space entry guidelines set

forth in chapter 14, "Plant Safety and Good Housekeeping" in the Operations of Wastewater Treatment Plants, Field Study Training Program manual.

Confined Space Guidelines (Pre-entry Checklist)

Do not enter a confined space until you have considered every question and have determined the space to be safe to be entered.

Job Name: _____

Tank and Purpose of Entry:

Yes No

- ☐ ☐ Is entry necessary?
- ☐ ☐ Was the atmosphere in the confined space tested?
- ☐ ☐ Was oxygen at least 19.5%-and not more than 23.5%?
- ☐ ☐ Were toxic, flammable, or oxygen-displacement gases/vapors present?

Multi-Gas Detector readings:

LEL _____ O₂ _____ CO _____ H₂S _____

If the answer to questions above is yes, do not enter the confined space without notification and approval of either John W. Clingman or Dwight L. Zemp at the numbers listed above.

Approved confined space entry should be checked for the following.

Yes No

- ☐ ☐ Will the atmosphere in the space be monitored while work is going on? Continuously or Periodically
- ☐ ☐ Has the space been cleaned before entry?
- ☐ ☐ Has the space been ventilated before entry?
- ☐ ☐ Will ventilation be continued during entry?

☐ ☐ Is the air intake for the ventilated system located in an area that is free of combustibles, dusts, vapors and toxic substances?

☐ ☐ Has space been isolated from other systems?

If the answer to these questions is yes proceed with the following questions. If the answer to any of these questions is no, no *work in the confined space* is allowed without prior clearance from either John W. Clingman or Dwight L. Zemp.

Yes No

☐ ☐ Has electrical equipment been locked out?

☐ ☐ Has mechanical equipment been blocked, chocked and disengaged where necessary?

☐ ☐ Have lines under pressure been blanked and bled?

☐ ☐ Is special clothing required?

☐ ☐ Is rescue equipment and/or communications equipment required?

☐ ☐ Are spark-proof tools required?

☐ ☐ Will there be a standby person on the outside in constant visual or auditory communication with the person on the inside?

☐ ☐ Has a confined space entry permit been issued? If yes, has entry been approved by the Qualified Person onsite?

☐ ☐ Have emergency telephone numbers been provided?

☐ ☐ Do you know the facility address or have directions to the facility in the event of an emergency?

Complaint Procedure

An employee who feels that they may be entering an environment that is unsafe or may constitute a situation dangerous to their health should immediately contact either John W. Clingman or Dwight L. Zemp at the telephone numbers listed above. In the event they can't reach either John W. Clingman or Dwight L. Zemp they are not to enter the work area.

Inquiries and/or complaints will be investigated as quickly as possible. Any investigation will be conducted in as confidential manner as is compatible with a thorough investigation of the complaint.

Discipline

Any employee found to have violated these guidelines will be subject to appropriate disciplinary procedure action, including reprimands, suspension or termination of employment.

Responsibility

Each manager is responsible for implementing and enforcing this policy within his or her area of supervision.

SECTION VI - EMERGENCIES

In most emergencies, common sense usually dictates the course of action to be taken in accident situations (especially those involving personal injury). In any emergency, it is your duty to stick with the problem until it is solved or until you are relieved by competent personnel.

FOR MEDICAL EMERGENCIES

- A. Summon necessary medical assistance immediately.
- B. Locate someone qualified to administer first aid, if needed.
- C. Wait for help to arrive.
- D. Report injuries to management, even though medical attention may not be required.

ON-THE-JOB INJURIES

An employee who is injured on the job must report the injury immediately. Failure to report an injury, whether medical attention is required at the time or not, may result in the loss of any Workman's Compensation Insurance Benefits.

If an injured employee is unable to return to work the same day, (in the opinion of a doctor) he or she will be paid through the day of the injury. Other compensation will be directed through Workman's Compensation Insurance.

EXHIBIT

4

AUG 25 2005

FILED

2005 AUG 23 PM 3: 01

BEVERLY FRIZKE
CLERK OF SUPERIOR COURT
YUMA, ARIZONA

SUPERIOR COURT OF ARIZONA

**YUMA COUNTY
YUMA, AZ**

**Four
Div**

**August 23, 2005
Date**

**Andrew W. Gould
Judge**

**Laura Palmer
Deputy Clerk(s)**

No. S1400CR200201238 (Def. #4)

STATE OF ARIZONA

vs.

**SANTEC CORPORATION
A Colorado Corporation**

County Attorney

By: Steve Kiholm/Thomas Varela

Attorney for Defendant

By: Marc Budoff

SENTENCE OF PROBATION

12:00 a.m./p.m. The State is represented by the above named Deputy County Attorney; the defendant is present with counsel named above.

Court Reporter Kimberly McAndrews is present.

Pursuant to A.R.S. §13-607, the court finds as follows:

WAIVER OF TRIAL The defendant knowingly, intelligently, and voluntarily waived his right to a trial with or without a jury, his right to confront and cross examine witnesses, his right to testify or remain silent and his right to present evidence and call his own witnesses after having been advised of these rights. The determination of guilt was based upon a plea of guilty/no contest.

IT IS THE JUDGMENT OF THE COURT that the defendant is guilty of the crime of Count XII: Violating Safety Standard and Causing Death of an Employee, a class six felony, and a nondangerous and nonrepetitive offense, in violation of A.R.S. §§23-418(e), 13-303, 13-305, 13-701, 13-707, 13-702, 13-801 13-802, 13-803 and 13-901 committed on October 24, 2001.

Upon consideration of the offense, and the facts, law and circumstances involved in this case,

NO. S1400CR200201238 (Def. #4). STATE VS. SANTEC CORPORATION
aka a Colorado Corporation

the court finds that probation is appropriate in this case.

As punishment for this/these crime(s).

IT IS ORDERED suspending Imposition of sentence and placing the defendant on supervised probation for a period of 24 months commencing August 23, 2005 under the supervision of the Adult Probation Department of this court, in accordance with the formal Judgment and Order suspending and imposing terms of probation signed by the court.

As a condition of probation:

Santec Corporation is required to implement a safety program that complies with the safety regulations concerning confined spaces outlined in OSHA. In order to insure that the safety program is adequate, the Inspection and Training Section of ADOSH is directed to inspect Santec's operations in Arizona at least once a year and file a report with the Adult Probation Department re: the same.

RESTITUTION

It is **ORDERED** the defendant pay restitution totaling \$30,000.00 to the victim(s) of this crime as follows:

- (1) \$28,895.74 to the State; and
- (2) \$1,104.26 to Maxine Lanser.

Said restitution shall be paid at the rate of \$1,500.00 per month commencing October 1, 2005, and shall be paid in full by the completion of defendant's probation.

FEES, FINES AND ASSESSMENTS

It is **ORDERED** the defendant shall pay the following fines, fees and/or assessments commencing on October 1, 2005 and are due and payable on the first of the month thereafter until paid in full:

NO. S1400CR200201238 (Def. #4), STATE VS. SANTEC CORPORATION
aka a Colorado Corporation

- [x] **SUPERIOR COURT ENHANCEMENT FEE** in the amount of \$10.00 to be paid in one payment.
- [x] **TIME PAYMENT FEE** of \$20.00 to be paid in full by October 1, 2005 if the defendant pays restitution on a time payment basis. If the defendant pays that amount today, the time payment fee shall be waived.

It is further **ORDERED** all payments are to be made through the office of the Yuma County Clerk of the Superior Court.

The written terms and conditions of probation are handed to the defendant for explanation, acceptance, and signature. Defendant agrees to the stated waiver of right of extradition. The defendant is advised concerning the consequences of failure to abide by the conditions of probation.

The defendant is advised concerning right of review after conviction and written notice of those rights is provided.

It is **ORDERED** granting the State's Motion to Dismiss all remaining charges as to this defendant only.

It is **ORDERED** defendant will be released from custody as to this cause only.

It is **ORDERED** exonerating any bond.

Let the record reflect that the defendant's fingerprint is permanently affixed to this sentencing order in open court.

12:25 a.m. (p.m.) Hearing Concludes


Judge of the Superior Court

6385 11-24
Office AU # 12109

CASHIER'S CHECK

SERIAL # 8358501053
ACCOUNT# 4861-505758

Purchaser: SANTEC CORPORATION
Purchaser Account: 1440058434
Operator I.D.: udeh4247

PAY TO THE ORDER OF

***CLERK OF SUPERIOR COURT YUMA COUNTY ***
RE: SANTEC CORPORATION

September 28, 2005

Thirty thousand thirty dollars and no cents

\$30,030.00

WELLS FARGO BANK, N.A.
445 S PERRY ST.
CASTLE ROCK, CO 80104
FOR INQUIRIES CALL (480) 384-3122

NOTICE TO PURCHASER - IF THIS INSTRUMENT IS LOST,
STOLEN OR DESTROYED, YOU MAY REQUEST CANCELLATION
AND REISSUANCE AS A CONDITION TO CANCELLATION AND
REISSUANCE, WELLS FARGO BANK MAY IMPOSE A FEE AND
REQUIRE AN INDEMNITY AGREEMENT AND BOND.

VOID IF OVER US \$ 30,030.00

NON-NEGOTIABLE

Purchaser Copy

FB004 1403

6385 11-24
Office AU # 12109

CASHIER'S CHECK

6358501053

Operator I.D.: udeh4247

PAY TO THE ORDER OF

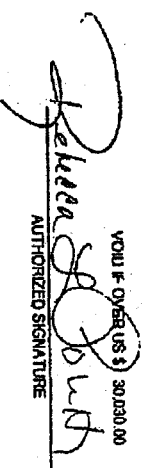
***CLERK OF SUPERIOR COURT YUMA COUNTY ***
RE: SANTEC CORPORATION

September 28, 2005

Thirty thousand thirty dollars and no cents

\$30,030.00

WELLS FARGO BANK, N.A.
445 S PERRY ST.
CASTLE ROCK, CO 80104
FOR INQUIRIES CALL (480) 384-3122

VOID IF OVER US \$ 30,030.00
AUTHORIZED SIGNATURE


⑈6358501053⑈ ⑆121000248⑆4861 505758⑈

FILE COPY

MEMORANDUM
RECEIVED

LEGAL
RECEIVED

TO: Docket Control

JAN 18 2006

2006 JAN 18 A 9 33

FROM: Ernest G. Johnson
Director
Utilities Division

LEGAL DIV.
ARIZ CORPORATION COMMISSION

AZ CORP COMMISSION
DOCUMENT CONTROL

DATE: January 17, 2006

RE: **SECOND AMENDED** STAFF REPORT FOR CORONADO UTILITIES, INC.,
APPLICATION FOR A CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE WASTEWATER SERVICE TO A PORTION OF
PINAL COUNTY AND FOR AUTHORITY TO ISSUE SHORT AND LONG-
TERM DEBT (DOCKET NOS. SW-04305A-05-0086 AND SW-04305A-05-
0087)

Attached is the **Second Amended** Staff Report for Coronado Utilities, Inc., application for a Certificate of Convenience and Necessity ("CC&N") in Pinal County and for authority to issue short- and long-term debt. Staff recommends approval of the CC&N, Phase 1, Phase 2 and Phase 3 rates, and financing with conditions.

EGJ:LAJ:red

Originator: Linda Jaress

EXHIBIT

S-7
admitted

Service List for: Coronado Utilities, Inc.

Docket Nos. SW-04305A-05-0086 and SW-04305A-05-0087

Mr. Jay Shapiro
Mr. Patrick Black
Fennemore Craig, PC
3003 North Central Avenue, Suite 2600
Phoenix, Arizona 85012

Mr. Christopher C. Kempley
Chief, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Mr. Ernest G. Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Lyn Farmer
Chief, Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

**SECOND AMENDED STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION**

CORONADO UTILITIES, INC.

DOCKET NOS. SW-04305A-05-0086

AND

SW-04305A-05-0087

**APPLICATION FOR A
CERTIFICATE OF CONVENIENCE
AND NECESSITY**

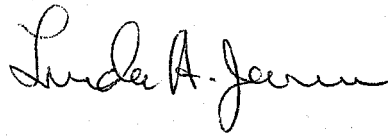
AND

**APPLICATION FOR AUTHORITY
TO ISSUE SHORT- AND LONG-TERM
DEBT FOR ACQUISITION AND
IMPROVEMENT OF WASTEWATER FACILITIES**

JANUARY 17, 2006

STAFF ACKNOWLEDGMENT

The Second Amended Staff Report for Coronado Utilities, Inc. (Docket Nos. SW-04305A-05-0086 and SW-04305A-05-0087) was prepared by the Staff member listed below.

A handwritten signature in cursive script, reading "Linda A. Jaress".

Linda A. Jaress
Executive Consultant III

EXECUTIVE SUMMARY
CORONADO UTILITIES, INC.
DOCKET NOS. SW-04305A-05-0086 AND SW-04305A-05-0087

On December 20, 2005, the Administrative Law Judge ("ALJ") filed a Procedural Order reopening the hearing on this matter. The procedural order also requested that Staff and Coronado Utilities, Inc. ("Coronado" or "Company") file information regarding two specific issues. The Procedural Order requested more information:

(1) on the background and effect of a criminal proceeding involving Santec Corporation, an affiliate of Coronado; and

(2) to determine if the rate shock anticipated for customers from the sale of the BHP Copper wastewater treatment facility can be mitigated by a three step rate phase-in, a hook-up fee or by other means."

Regarding the first request, Staff believes that the recommendations proposed by Staff in the Amended Staff Report sufficiently address the safety concerns and concerns about the effect of any criminal conduct of Santec Corporation ("Santec") on the operations of Coronado.

Regarding the concern about rate shock, Coronado has proposed rate schedules that have three phases, somewhat mitigating the impact of the substantial rate increases to the customers of Coronado. Staff recommends approval of those rates.

Therefore, Staff recommends approval of the financing application and Certificate of Convenience and under the terms delineated in the Recommendation section of this report.

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Introduction

On December 20, 2005, the Administrative Law Judge ("ALJ") filed a Procedural Order reopening the hearing on this matter. The procedural order also requested that Staff and Coronado Utilities, Inc. ("Coronado" or "Company") file information regarding two specific issues. The Procedural Order requested more information:

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(2) to determine if the rate shock anticipated for customers from the sale of the BHP Copper wastewater treatment facility can be mitigated by a three step rate phase-in, a hook-up fee or by other means."

More Information on the Background and Effect of the Criminal Proceeding

On January 12, 2006, Staff filed the following documents in these dockets regarding the criminal proceeding against Santec Corporation ("Santec"), Coronado's affiliate:

1. A copy of the Arizona Division of Occupational Safety and Health ("ADOSH") Reports, Inspection Nos. 304944523 and 304839483.
2. A copy of the Rural Metro Fire Department Incident Report, Incident No. 01-2001-0006196-000.
3. A copy of the Yuma County Sheriff's Department Report, Incident No. 2001-19486.
4. A copy of the Industrial Commission of Arizona ("ICOA"), ADOSH, Fatality Report regarding Gary V. Lanser.
5. A copy of the ICOA Citation and Notification of Penalty, Inspection No. K0234-304944523.
6. A copy of the Indictment of Santec Corporation, amongst other entities and persons, CR No. 2002-01238.
7. A copy of the Plea Agreement Santec Corporation entered into with the State of Arizona regarding CR No. 2002-01238.
8. A copy of the Minute Entry entitled "Imposition of Sentence" for Santec Corporation. CR No. 2202-01238.

Staff believes these documents fulfill the Procedural Order's requirement to provide background of the criminal proceeding. Regarding the effect of the criminal proceeding which

Staff was asked to address, Staff believes that the conditions recommended in its Amended Staff Report will help reduce or eliminate accidents at the Coronado facilities. Those recommendations are as follows:

1. That all operators, agents, employees or operators including employees and agents of contractors and/or subcontractors operating the Coronado facilities must comply with all Arizona Division of Occupational Safety and Health ("ADOSH") requirements including any and all training required by ADOSH to operate wastewater facilities.
2. On an annual basis, on the anniversary date of the Decision in this matter, for three years, Coronado must file in Docket Control, as a compliance item, certification from ADOSH that it has availed itself of ADOSH consultation services and its operators, agents, employees including employees and agents of contractors/and or subcontractors operating the Coronado facilities have taken appropriate training.

However, Staff has reviewed the two recommendations shown above and would like to modify them to also apply to any person "constructing" facilities rather than applying only to those who "operate" the facilities.

Mitigation of Rate Shock

The Recommended Opinion and Order ("ROO") issued in this docket took a significant step in mitigating rate shock by reducing the initial residential rates from the level recommended by Staff and the Company. Since the ROO and the Procedural Order was issued, BHP Copper ("BHP") and Coronado reached an agreement whereby BHP would subsidize the rates of Coronado for one year. This is explained in more detail in the December 28, 2005 testimony of Mr. Jason Williamson, witness for and part owner of Coronado.

The recommended rates and phases for residential customers are as follows:

1. Phase 1: Initial rates of \$27.00 per month.
2. Phase 2: \$37.00 per month effective when all the following three criteria are met:
 - a) The new wastewater treatment plant and system are in service;
 - b) The Company files with Docket Control an Arizona Department of Environmental Quality ("ADEQ") Approval of Construction;
 - c) The Company gives customers notice of the rate increase in a form acceptable to Staff and at east 30 days before the rates are to be implemented.

3. Phase 3: \$46.50 per month effective twelve months after the Phase 2 rates go into effect.
4. The recommended rates for residential and all other customer classes are attached to this report as Schedule LAJ-1. For all phased in rates, the second and third phases should be implemented under the same restrictions as for the phases for the residential rates.

Integral to the Phase 1 rates is the prohibition (to which Coronado has agreed) against recording an allowance for funds used during construction ("AFUDC") until Phase 2 rates become effective. This prohibition is based on the concept that AFUDC is a deferral of the recovery of interest on debt for construction. Phase 1 rates include amounts for debt service. Therefore, allowing Coronado to record AFUDC would ultimately result in double recovery of interest.

Staff believes these proposed rates and phases are superior to those previously recommended by Staff, the Company and the ROO because they include an additional phase reducing rates from the previous recommended levels for one year. However, Staff also recommends that Coronado be required to file a rate case fifteen months after the implementation of Phase 2 rates to insure that the rates and costs are synchronized. This is a modification to Staff's earlier recommendation that a rate case be filed during its fourth year of operations using its third year as the test year.

Hook-up Fees

The Procedural Order also requested consideration of a hook-up fee to mitigate the effect of rate shock. Staff was further motivated to examine this option after a newspaper article appeared in the Arizona Republic on December 12, 2005, which said that 35,000 homes were "envisioned" in or around Coronado's proposed service territory. However, both the Company and BHP responded to Staff's data requests about this article and demonstrated that development in the area was in only the most initial preparation stages and that it would be at least several years before new homes would be built, if any are built at all.

Hook-up fees are often a good method of protecting current customers from the costs of construction to serve new and future customers. In Coronado's case, the new plant is being built to serve current customers and there will be little or no extra capacity to serve new customers. Also, Staff believes that setting hook-up fees in this case would not be productive because for the foreseeable future, little growth is expected and the revenues from the hook-up fees is likely to be de minimus.

Recommendations

Staff recommends the application for approval of a CC&N and financing with the following conditions:

Regarding safety, Staff recommends:

1. That all operators, agents, employees or operators including employees and agents of contractors and/or subcontractors operating or constructing the Coronado facilities must comply with all ADOSH requirements including any and all training required by ADOSH to operate wastewater facilities.
2. On an annual basis, on the anniversary date of the Decision in this matter, for three years, Coronado must file in Docket Control, as a compliance item, certification from ADOSH that it has availed itself of ADOSH consultation services and its operators, agents, employees including employees and agents of contractors/and or subcontractors operating or constructing the Coronado facilities have taken appropriate training.

Regarding rates, Staff recommends:

3. That the Commission authorize Coronado Utilities, Inc. to charge the wastewater rates and charges shown on Schedule LAJ-1.
4. That Phase 2 rates should become effective when all the following three criteria are met: The new wastewater treatment plant and system are in service; the Company files with Docket Control, as a compliance item, an ADEQ Approval of Construction and; the Company gives customers notice of the rate increase in a form acceptable to Staff and at least 30 days before the rates are to be implemented.
5. That the Commission make a fair value rate base finding of \$3,096,163.
6. That Coronado use the depreciation rates as stated in the Staff Report filed on May 7, 2005.
7. That Coronado be ordered to file a rate application fifteen months after the implementation of Phase 2 rates.
8. That the Commission require Coronado Utilities, Inc. to maintain its books and records in accordance with the National Association of Regulatory Utility Commissioners ("NARUC") Uniform System of Accounts for Sewer Utilities.

9. That the Commission require Coronado Utilities, Inc., to file with Docket Control, as a compliance item, a tariff consistent with the rates and charges authorized by the Commission within 30 days of the effective date of a decision in this matter.

Regarding financing, Staff recommends:

10. That Coronado be authorized to obtain \$2,650,800 of long-term debt financing on the terms and conditions consistent with or better than those used in Staff's pro forma analysis subject to establishment of rates that provide Staff's recommended operating income.
11. That Coronado's initial capitalization be comprised of at least \$878,863 of equity.
12. That Coronado be required to retain seventy-five percent of its net operating income until equity represents forty percent of total capital.
13. That Coronado be required to file in Docket Control by April 15th of each year a Statement of Liabilities and Stockholders Equity until and including such time as the equity represents forty percent of total capital.
14. That the Commission approve the granting of liens in favor of the lender as required to secure the borrowings authorized.
15. That no loan funds be applied to operating expenses or income.
16. That Coronado be authorized to engage in any transaction and to execute any documents necessary to effectuate the financing authorizations granted.
17. That Coronado be ordered to file copies of all executed financing documents with Docket Control within 90 days of loan closing.

Regarding other compliance, Staff recommends:

18. That the Commission require Coronado Utilities, Inc., to file with Docket Control, as a compliance item, a copy of the Pinal County franchise within 365 days of the effective date of the decision in this matter.
19. That the Commission require Coronado Utilities, Inc., to file with Docket Control, as a compliance item, a copy of the Arizona Department of Environmental Quality Unified Water Quality Permit for the San Manuel Wastewater Treatment Facility authorizing a treatment and disposal capacity of 350,000 gallons per day within 365 days of the effective date of the decision and order in this matter.

Coronado Utilities, Inc.

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Staff further recommends that the Commission's Decision granting this Certificate of Convenience and Necessity to Coronado Utilities, Inc., be considered null and void after due process should Coronado fail to meet Conditions 9, 18 and 19 within the time specified.

**RATE DESIGN
FOR PHASED-IN RATES**

PHASE 1

Monthly Customer Charges

	Phase 1
Residential	\$ 27.00
Commercial	\$ 7.50
Mobile Home Park - Winter Only (See Note A)	\$ 7.50
School	\$ 7.50

Volumetric Rates - Based on Metered Water Usage

Commercial - per 100 gallons of water usage	\$ 0.6400
Mobile Home Park - per 100 gallons of water usage (Winter Only - See Note A)	\$ 0.3700
School - per 100 gallons of water usage	\$ 0.2000

Volumetric Rates - Based on Number of Units

Mobile Home Park - monthly rate per occupied space (Summer Only - See Note A)	\$ 20.71
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Effluent Sales

Per 1,000 Gallons for General Irrigation	\$ 0.15
Per Acre Foot (or 325,851 gallons) for General Irrigation	\$ 48.88

PHASE 2

Monthly Customer Charges

	Phase 2
Residential	\$ 37.00
Commercial	\$ 7.50
Mobile Home Park - Winter Only (See Note A)	\$ 7.50
School	\$ 7.50

Volumetric Rates - Based on Metered Water Usage

Commercial - per 100 gallons of water usage	\$ 0.8100
Mobile Home Park - per 100 gallons of water usage (Winter Only - See Note A)	\$ 0.4700
School - per 100 gallons of water usage	\$ 0.2561

Volumetric Rates - Based on Number of Units

Mobile Home Park - monthly rate per occupied space (Summer Only - See Note A)	\$ 31.86
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Effluent Sales

Per 1,000 Gallons for General Irrigation	\$ 0.15
Per Acre Foot (or 325,851 gallons) for General Irrigation	\$ 48.88

PHASE 3

Monthly Customer Charges

	Phase 3
Residential	\$ 46.50
Commercial	\$ 7.50
Mobile Home Park - (Winter Only - See Note A)	\$ 7.50
School	\$ 7.50

Volumetric Rates - Based on Metered Water Usage

Commercial - per 100 gallons of water usage	\$ 0.9800
Mobile Home Park - per 100 gallons of water usage (Winter Only - See Note A)	\$ 0.5700
School - per 100 gallons of water usage	\$ 0.3122

Volumetric Rates - Based on Number of Units

Mobile Home Park - monthly rate per occupied space (Summer Only-See Note A)	\$ 31.86
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Effluent Sales

Per 1,000 Gallons for General Irrigation	\$ 0.15
Per Acre Foot (or 325,851 gallons) for General Irrigation	\$ 48.88

Note A: Summer (April, May, June, July, August, September)
Winter (January, February, March, October, November, December)